

Exhibit A

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION
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6 IN RE: HIGH-TECH EMPLOYEE)
7 ANTITRUST LITIGATION)
8) No. 11-CV-2509-LHK
9 THIS DOCUMENT RELATES TO:)
10 ALL ACTIONS.)
11 _____)
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15 VIDEO DEPOSITION OF KEVIN M. MURPHY, Ph.D.
16 December 3, 2012
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20 REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR
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11:16:47 1 declarations. That's consistent with other things that
11:16:48 2 I -- in the interviews that people said.

11:16:53 3 Q. Did you take notes during these interviews?

11:16:55 4 A. No. I -- you know, I listened as well --
11:16:59 5 listened to what people said, I asked questions, and
11:17:03 6 tried to form a summary for myself as to the information
11:17:10 7 that was available.

11:17:12 8 Q. What do you mean you tried to form a summary
11:17:14 9 for yourself?

11:17:15 10 A. I mean, I was interested in a general
11:17:18 11 description of the process. And we interviewed people
11:17:22 12 from each company and asked them about their hiring
11:17:27 13 processes and their compensation processes. And we got
11:17:31 14 a very consistent picture, which is consistent with
11:17:35 15 other things I've seen over the years in terms of how
11:17:38 16 people hire, how they process, where you go out and you
11:17:42 17 identify potential candidates.

11:17:44 18 You whittle down those candidates, you
11:17:46 19 interview a smaller number of candidates, and then you
11:17:50 20 proceed with offers to the people who look most
11:17:53 21 attractive among those people you interview. And that
11:17:55 22 was the process that I think was -- that's the common
11:17:58 23 elements of the process.

11:17:59 24 Q. I'm going to ask you a very precise question.
11:18:01 25 When you say you created a summary for yourself based on

11:18:04 1 these interviews, are you talking about some written
11:18:08 2 notes or something you wrote down, either in a computer
11:18:11 3 or on a pad of paper, other than your report?

11:18:14 4 A. No. I think it was -- it was in my mind.

11:18:18 5 Q. Okay.

11:18:18 6 A. It was my understanding of what people had
11:18:22 7 said. And it was -- you know, and ultimately some
11:18:29 8 people discussed those same issues in their
11:18:31 9 declarations, and that's what's cited here.

11:18:43 10 Q. What companies is this true for besides Adobe
11:18:47 11 and Intuit? Specifically which companies, that they
11:18:52 12 don't discuss compensation until late in the hiring
11:18:54 13 process?

11:18:54 14 A. That that's generally when they discuss? I
11:18:57 15 don't know which ones in particular brought that up, but
11:19:00 16 certainly anybody who discussed that topic, that's what
11:19:04 17 they said.

11:19:05 18 Q. Okay. Is it possible it was only Mr. Vijungco
11:19:08 19 and Mr. Galy?

11:19:08 20 A. No. I think it would have come up more often
11:19:10 21 than that.

11:19:13 22 MR. GLACKIN: Can we have Mr. Galy's
11:19:17 23 declaration -- actually, hold that thought. One more
11:19:19 24 question.

11:19:20 25 Q. Are you saying that a cold call transmits no

11:19:30 1 information about compensation unless an offer is made
11:19:34 2 or unless a specific compensation figure is discussed at
11:19:37 3 the cold call?

11:19:38 4 A. No. I mean, there could be some information.
11:19:41 5 I'm saying if you are talking about specific salary
11:19:44 6 information, that's generally not part of the initial
11:19:47 7 cold call. It may -- you may ultimately end up there if
11:19:51 8 you get far enough down the process. My understanding
11:19:53 9 is it's generally not what's discussed on the call.

11:19:57 10 Q. So -- sorry. I didn't mean to interrupt you.

11:19:58 11 A. No. That's generally not, although sometimes
11:20:00 12 people talk salary ranges or whatever. But I don't
11:20:03 13 think that's generally what happens.

11:20:05 14 Q. So you admit that sometimes when cold calls are
11:20:07 15 made, the recruiters talk about salary ranges?

11:20:11 16 A. I've seen people reference that. I don't
11:20:13 17 recall which -- where I specifically saw that. But I --

11:20:17 18 I think specific salary terms are generally discussed
11:20:21 19 later in the process, as I say here.

11:20:24 20 Q. Would you agree that a discussion about a
11:20:28 21 salary range is a discussion about compensation?

11:20:34 22 A. Yeah. It can give you some information. I
11:20:37 23 think usually you want to know more than that to kind of
11:20:40 24 really understand where the offer stands. I mean --

11:20:44 25 Q. Let me ask you this -- I have an ulterior

11:20:47 1 motive -- so you say here, "Both Adobe and Intuit
11:20:49 2 clearly state that they do not state compensation until
11:20:52 3 the later stages of the recruiting process."

11:20:55 4 What understanding, if any, do you have about
11:20:58 5 whether or not Adobe or Intuit sometimes conveyed
11:21:03 6 information about a salary range in the initial cold
11:21:05 7 call?

11:21:07 8 A. I don't have any specific recollection
11:21:10 9 regarding that.

11:21:11 10 Q. What are you -- what are you assuming about
11:21:14 11 that for purposes of your report?

11:21:18 12 A. I don't think we're relying specifically on
11:21:20 13 that. I think -- I think what we're really relying on,
11:21:27 14 again, is there are multiple ways to recruit people, and
11:21:29 15 there are many places to recruit people from other than
11:21:32 16 recruit from these other defendants. And there is --
11:21:36 17 that are the two key facts.

11:21:38 18 Q. Well, this is a key --

11:21:40 19 A. Background.

11:21:41 20 Q. This is a key fact, though, because doesn't
11:21:43 21 this assumption, or fact about when compensation is
11:21:49 22 discussed, isn't this the basis for your premise that
11:21:53 23 hiring should be a reasonable proxy for the
11:21:55 24 price-discovery process? That's the premise for it,
11:21:57 25 right?

01:14:50 1 information that don't have much to do with price
01:14:53 2 discovery.

01:14:56 3 Q. Do you agree that even -- well, let me back up.
01:15:04 4 Do you agree that disruptions to the amount of
01:15:10 5 information available in the market can have an effect
01:15:13 6 on the transaction prices actually paid in the market?

01:15:17 7 A. Wow. That's, like, a complicated question
01:15:19 8 because, I mean -- when you are saying individual --
01:15:26 9 what an individual gets or market-wide effects?

01:15:28 10 When you said on prices, are you talking
01:15:32 11 generically on the level of prices? Are you talking
01:15:35 12 more on individual prices?

01:15:39 13 Q. I'm -- what I'm trying to do is set a baseline,
01:15:40 14 just a baseline for our conversation, so I understand
01:15:44 15 what assumptions or views we hold in common and which
01:15:48 16 ones we don't.

01:15:49 17 So my question is just, do you agree that under
01:15:54 18 some circumstances a disruption of the availability or a
01:16:00 19 change to the availability of information in a market
01:16:03 20 can affect the prices paid?

01:16:07 21 A. Yeah. I mean, in some circumstances, that
01:16:10 22 could happen, but often it will affect different prices
01:16:14 23 in different directions. That's kind of part of the
01:16:17 24 same process.

01:16:18 25 So it's not -- doesn't necessarily have the

01:16:20 1 sort of market-wide impact. I guess that's really what
01:16:23 2 I'm trying to get at here.
01:16:26 3 You got to be careful which, quote, prices you
01:16:29 4 are talking about. Whether you are talking about kind
01:16:33 5 of the overall level or are you talking about
01:16:35 6 individuals. Those would be different.

01:16:38 7 Q. I'm talking about -- well, why don't we talk
01:16:41 8 about both. Would you agree that under some
01:16:42 9 circumstances, a change in the availability of
01:16:45 10 information can have an effect on the overall prices
01:16:50 11 paid across the market?

01:16:53 12 A. Yeah. It could have some impact if it was --
01:16:57 13 you would have to examine the situation. This is such a
01:17:00 14 hypothetical.

01:17:01 15 Q. Is the hypothetical possible? That's all I'm
01:17:03 16 looking for.

01:17:03 17 A. You could get higher prices, lower prices. It
01:17:06 18 could have some effect on overall outcomes.

01:17:10 19 Q. Could it hypothetically have some effect on
01:17:12 20 individual transaction prices?

01:17:14 21 A. Yeah. That is -- you know, when we gave
01:17:17 22 examples about that earlier, we talked about specific
01:17:20 23 examples where it would have different effects on
01:17:23 24 different individuals.

01:17:25 25 Q. Do you have an opinion about whether or not

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03:19:15 1 So again, you got to take all those other
03:19:18 2 forces into account as well. Mr. Leamer just sort of,
03:19:22 3 in one fell swoop, says this tells me it's going to be
03:19:26 4 pushed across the structure. And that's invalid
03:19:30 5 empirically, and that's invalid as a matter of
03:19:33 6 economics.

03:19:34 7 Q. What kind of analysis could accomplish that
03:19:38 8 goal, given the data that's available in your opinion?

03:19:42 9 A. I mean, he should look and see whether, in
03:19:44 10 fact, there is that propagation mechanism. He never
03:19:48 11 even tried. He never even looked to see whether wage
03:19:51 12 changes for individuals are propagated through the
03:19:54 13 system. He didn't look at that. He just looked at
03:19:57 14 these averages. And he looked at the R-squareds of some
03:20:02 15 regressions, which doesn't tell you anything about that.

03:20:04 16 Q. So can you give me some examples of analyses
03:20:08 17 that you would consider would be an appropriate way to
03:20:11 18 address this question?

03:20:16 19 A. That's -- you know, look, I didn't set out to
03:20:18 20 do that. I'm just telling you he didn't do it. I mean,
03:20:21 21 he should have -- there is things he should have done or
03:20:24 22 could have done. But generally you got to write down
03:20:29 23 your hypothesis. And you got to say my hypothesis is
03:20:31 24 when X happens Y happens, and I'm going to test that.

03:20:34 25 The kind of things he wrote down was, you know,